

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

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PCT

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

Date of mailing (day/month/year)	4 May 2006 (04-05-2006)
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Applicant's or agent's file reference
85149-203 MR

FOR FURTHER ACTION
See paragraph 2 below

International application No.

PCT/CA2006/000148

International filing date (day/month/year)

07 February 2006 (07-02-2006)

Priority date (day/month/year)

07 February 2005 (07-02-2005)

International Patent Classification (IPC) or both national classification and IPC

IPC: **B02B 3/00** (2006.01), **C12P 7/06** (2006.01), **C11B 1/00** (2006.01), **A23D 9/04** (2006.01),
B02B 1/02 (2006.01), **B01D 21/00** (2006.01), **B02B 3/08** (2006.01), **B02B 3/04** (2006.01), **B02B 1/04** (2006.01)

Applicant

FWS CONSTRUCTION LTD. ET AL

1. This opinion contains indications relating to the following items :

- | | | |
|-------------------------------------|--------------|--|
| <input checked="" type="checkbox"/> | Box No. I | Basis of the opinion |
| <input type="checkbox"/> | Box No. II | Priority |
| <input type="checkbox"/> | Box No. III | Non-establishment of opinion with regard to novelty, inventive step and industrial applicability |
| <input type="checkbox"/> | Box No. IV | Lack of unity of invention |
| <input checked="" type="checkbox"/> | Box No. V | Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability, citations and explanations supporting such statement |
| <input type="checkbox"/> | Box No. VI | Certain documents cited |
| <input type="checkbox"/> | Box No. VII | Certain defects in the international application |
| <input checked="" type="checkbox"/> | Box No. VIII | Certain observations on the international application |

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/CA
Canadian Intellectual Property Office
Place du Portage I, C114 - 1st Floor, Box PCT
50 Victoria Street
Gatineau, Quebec K1A 0C9
Facsimile No.: 001(819)953-2476

Date of completion of this opinion

26 April 2006 (26-04-2006)

Authorized officer

Simon Webster (819) 956-6135

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/CA2006/000148

Box No. I Basis of this opinion

1. With regard to the **language**, this opinion has been established on the basis of:

☒ the international application in the language in which it was filed

☐ a translation of the international application into _____, which is the language of a translation furnished for the purposes of international search (Rules 12.3(a) and 23.1(b)).

2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of :

a. type of material

☐ a sequence listing

☐ table(s) related to the sequence listing

b. format of material

☐ on paper

☐ in electronic form

c. time of filing/furnishing

☐ contained in the international application as filed.

☐ filed together with the international application in electronic form

☐ furnished subsequently to this Authority for the purposes of search.

3 ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statement that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.

4. Additional comments :

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International application No.
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Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims <u>1-13</u>	YES
	Claims <u>None</u>	NO
Inventive step (IS)	Claims <u>1-13</u>	YES
	Claims <u>None</u>	NO
Industrial applicability (IA)	Claims <u>1-13</u>	YES
	Claims <u>None</u>	NO

2. Citations and explanations :

D1 - US4189503 (GIGUERE) 19-02-1980

Novelty (N)

Claims 1-13 comply with PCT Article 33(2). D1 is considered the closest prior art. D1 does not disclose a method of fractioning corn comprising tempering, cracking, and threshing the corn kernels followed by separation by size and subsequent large and medium density separation.

Inventive Step (IS)

Claims 1-13 comply with PCT Article 33(3). D1 is considered the closest prior art. D1 does not disclose a method of fractioning corn comprising tempering, cracking, and threshing the corn kernels followed by separation by size and subsequent large and medium density separation. Claims 1-13 are considered to involve an inventive step since, having regard to the prior art, it is not, at the prescribed relevant date, obvious to a person skilled in the art.

Industrial applicability (IA)

The subject matter of claims 1-13 is considered to be industrially applicable and thus fulfills the requirements of PCT Article 33(4).

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Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made :

Claims 1, 6, and 7 do not comply with PCT Article 6. The meaning of the expression "germ/pericarp/endosperm" is not clear.

The description does not comply with PCT Article 5. A statement in an application, such as found on page 3, which incorporates any other document, does not fully describe the invention. Also, any reference to a provisional application, such as found on page 1, should be removed. The PCT does not provide for any reference to provisional applications.